No. 642.

Motion to advance.

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In the Supreme Court of the United States.

OCTOBER TERM, 1901.

SIMEON I. GRIN, APPELLANT,
v.
JOHN H. SHINE, UNITED STATES MARSHAL for the northern district of California. } No. 642.

MOTION TO ADVANCE.

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v.
JOHN H. SHINE, UNITED STATES MARSHAL for the northern district of California. | No. 642.

MOTION TO ADVANCE.

This is an appeal in a habeas corpus proceeding from an order dated December 18, 1901, remanding the appellant herein to the custody of the United States marshal.

The facts in the case are substantially as follows: On March 6, 1901, Simeon Ivanow Grin, a Russian subject, was residing in the city of Rostov, on the Don, in the Empire of Russia, and was in the employ of E. L. Zeefo & Co., an export corn trading concern. On that day Grin was entrusted with the sum of 25,000 rubles in Russian money (equivalent to about $12,500), in his capacity as clerk of one of the representatives of the firm of Zeefo & Co., and instructed to deliver the money to the administration of the Valadikavkaz Railroad in said city. Grin did not deliver the money as directed, but appropriated the whole amount to his own use, and immediately absconded from the Empire of Russia to the United

States, locating in the city and county of San Francisco, Cal. On October 8, 1901, the mandate of the Secretary of State of the United States was issued to the officers given jurisdiction of extradition proceedings under section 5270 of the Revised Statutes, directing the arrest of Grin upon the charge of embezzlement, and that a warrant should issue for his surrender to the Empire of Russia, pursuant to treaty stipulations between that country and the United States, if, upon proper proceedings, sufficient evidence of his guilt was produced. This mandate was presented to the United States district judge for the northern district of California on October 16, 1901, together with the complaint of the Russian imperial consul, Paul Kosakevitch, stationed at San Francisco. The said judge thereupon issued a warrant for the apprehension of Grin in accordance with the terms of the mandate, ordering him to be brought before said court. This warrant was directed to the United States marshal for the northern district of California. The prisoner was not found within that jurisdiction, and on October 17, a second warrant was issued by the district judge for the apprehension of Grin, directed to the United States marshal in any district of California. This warrant provided for the bringing of Grin before E. H. Heacock, United States commissioner for the northern district of California. On the same date a special order was made by said court authorizing said commissioner to discharge all the duties and exercise all the powers, etc., under section 5270 of the Revised Statutes. The prisoner was arrested under this warrant in the south-

ern district of California, and brought before the commissioner, and the usual proceedings had. On November 23, 1901, the commissioner certified to the Secretary of State the record of such proceedings, and that he deemed the evidence produced sufficient to sustain the charge under the provisions of the extradition treaty between the United States and Russia, and that he had therefore issued his warrant for the commitment of said Grin to the custody of the United States marshal until orders were received from the President of the United States for his surrender to the proper officers of the Russian Government.

On November 20, 1901, a petition for a writ of habeas corpus was filed by Grin in the circuit court of the United States for the northern district of California. Therein the petitioner alleged want of jurisdiction in the commissioner to act, and set forth certain alleged technical defects in the extradition papers, contending that, if guilty at all, it was of the crime of larceny and not of embezzlement, and that therefore his imprisonment was unlawful and in violation of the constitution and laws of the United States and in particular of the fifth amendment to the Constitution of the United States and sections 5270 and 5271 of the Revised Statutes.

Upon the filing of the petition and the issuance of the writ, the Russian imperial consul, Paul Kosakevitch, was permitted to intervene in the cause and made answer to the petition, denying the material allegations therein. Upon hearing, the petition was dismissed, the writ of habeas corpus discharged, and

the petitioner remanded to the custody of the United States marshal.

This case was decided by the circuit court on December 18. The record is not voluminous. The certificate of the clerk of the court, Southard Hoffman, to the transcript is dated January 17, 1902. The citation is made returnable February 21. Sent up with the transcript of the record was an order signed by Judge Morrow enlarging the time for filing the record and docketing the case "twenty days from this the 21st day of February, A. D. 1902." The case was docketed in this court April 14.

It is evident that the appeal has been taken to this court mainly, if not solely, for the purpose of delay. Following is a copy of a letter from the Secretary of State in which, on the solicitation of the Russian ambassador, he requests that steps be taken for the advancement of the case and its speedy disposition.

DEPARTMENT OF STATE,
Washington, April 23, 1902.

The honorable the ATTORNEY-GENERAL.

SIR: Referring to the case of the Russian subject, Simeon I. Grin, now pending before the Supreme Court of the United States, I have the honor to request, at the instance of the Russian ambassador at this capital, that you will ask the court to advance the case so that it may be heard at the earliest practicable date—if possible, at the present term of the court.

I have the honor to be, sir, your obedient servant,

JOHN HAY.

For the above reasons the Solicitor-General moves the court to advance the case upon the docket for hearing at the earliest day practicable.

Notice of this motion has been served upon opposing counsel, and proof of service of such notice filed with the clerk of this court.

JOHN K. RICHARDS,
Solicitor-General.

APRIL 23, 1902.